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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,540

08/07/2006

Tomokazu Kanamaru

2006-1293A

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EXAMINER

NGUYEN, VAN H

ART UNIT

PAPER NUMBER

2194

NOTIFICATION DATE

DELIVERY MODE

05/27/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/588,540	<b>Applicant(s)</b> KANAMARU ET AL.	
	<b>Examiner</b> VAN H. NGUYEN	<b>Art Unit</b> 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07 August 2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is responsive to the application filed 08/07/2006 and the preliminary amendment filed 08/07/2006.

Claims 1-8 are presented for examination.

### **Oath/Declaration**

2. The Office acknowledges receipt of a properly signed Oath/Declaration submitted 08/07/2006.

### **Information Disclosure Statement**

3. The Applicant's Information Disclosure Statement filed 08/07/2006 has been received, entered into the record, and considered. See attached form PTO 1449.

### **Drawings**

4. The drawings filed 08/07/2006 are accepted by the examiner.

### **Specification**

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### **Claim Rejections - 35 USC § 101**

6. 35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

**Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

The claim is directed to a program per se and does not fall within any of the four enumerated categories of patentable subject matter in section 101.

### **Claim Rejections - 35 USC § 102**

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by

**Hosokawa et al.** (US 6088727 A).

The reference was provided by Applicant in the IDS filed 08/07/2006.

#### **As to Claim 1:**

Hosokawa teaches an electronic device connected via a network to at least another electronic device which can execute an application (see Figs.47-51 and the associated text), comprising:

an application recognizing section for recognizing an application held by the other electronic device; an application unexecutability detecting section for detecting whether or not the application recognized by the application recognizing section is unexecutable in the other electronic device (see Fig.41 and the associated text);

Art Unit: 2194

an application execution determining section for determining whether or not a substitute application which can substitute for an application which the application unexecutability detecting section has determined that is unexecutable, and provides a service relevant to a service provided by the application or assists the service provided by the application, is to be executed (see Fig.44 and the associated text);

a substitute application holding determining section for determining whether or not the substitute application which can substitute for the application determined to be unexecutable is held in the electronic device; and an application executing section for executing the substitute application (see Figs.47-51 and the associated text).

**As to Claim 2:**

Hosokawa teaches the application execution determining section includes an application startup request detecting section for detecting a startup request with respect to the application which the application unexecutability detecting section has detected that is unexecutable, and the application execution determining section, when a startup request is detected with respect to the application which the application unexecutability detecting section has determined that is unexecutable, determines that the substitute application is to be executed (see Figs.41 and 44 and the associated text).

**As to Claim 3:**

Hosokawa teaches the substitute application holding determining section includes an application identity determining section for determining whether or not an identical function application having a function identical to the application held by the other electronic device recognized by the application recognizing section is held by the electronic device, and creating an identity table in which the application held by the other electronic device is associated with the identical function application held in the electronic device, the identical function application is a substitute application, and the substitute application holding determining section determines whether or not the substitute application is held in the electronic device, based on the identity table created by the application identity determining section (see Fig.49 and the associated text).

**As to Claim 5:**

Hosokawa teaches the application execution determining section includes an application executed state obtaining section for obtaining an executed state of an application executed in the other electronic device as application executed state information, the application execution determining section determines that the substitute application is to be executed, when the application executed state information about the application which the application startup request detecting section has determined that is unexecutable, is held by the application executed state obtaining section, and the application executing section executes the substitute application based on the application executed state information so as to continue the application determined to be unexecutable (see Figs.43B and 44 and the associated text).

**As to Claim 6:**

Hosokawa teaches the application execution determining section includes an inter-device startup arbitrating section which inquires the other electronic device connected to the network whether or not the substitute application is held, and communicates with another electronic device which holds the substitute application, to determine whether or not the substitute application is to be executed in the electronic device (see Fig.47 and the associated text).

**As to Claim 7:**

Note the rejection of claim 1 above. Claim 7 is the same as claim 1, except claim 7 is a method claim and claim 1 is a device claim.

**As to Claim 8:**

Note the rejection of claim 1 above. Claim 8 is the same as claim 1, except claim 8 is a program claim and claim 1 is a system claim.

### **Allowable Subject Matter**

8. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, subject to the results of a final search by the Examiner.

### **Conclusion**

9. The prior art made of record, listed on PTO 892 provided to Applicant is considered to have relevancy to the claimed invention. Applicant should review each identified reference carefully before responding to this office action to properly advance the case in light of the prior art.

### **Contact information**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM-6:00PM. The examiner can also be reached on alternative Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HYUNG S. SOUGH can be reached at (571) 272-6799.

Art Unit: 2194

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/

Primary Examiner, Art Unit 2194